



Agenda Date: 08/18/03
Agenda Item: 3C

STATE OF NEW JERSEY

Board of Public Utilities

Two Gateway Center

Newark, NJ 07102

www.bpu.state.nj.us

**OFFICE OF CABLE
TELEVISION**

IN THE MATTER OF THE IMPLEMENTATION OF)
P.L. 2003, c.38, PROVIDING FOR THE REPORTING)
OF COMPLAINTS RECEIVED BY CABLE)
COMPANIES TO THE BOARD OF PUBLIC UTILITIES)

ORDER

Docket No.: CX03080615

(SEE ATTACHED SERVICE LIST)

BY THE BOARD:

The New Jersey Board of Public Utilities (Board) and its Office of Cable Television (OCTV), pursuant to N.J.S.A. 48:5A-1 et seq., have been granted general supervision and regulation of and jurisdiction and control over all cable television systems which operate within the State of New Jersey, subject only to the limitations of federal law. The within Order is being issued by the Board pursuant to P.L. 2003, c.38, which in part amends and supplements P.L. 1972, c.186, known as the Cable Television Act and codified as N.J.S.A. 48:5A-1 et seq., which directs the Board to order every cable television company in the State to keep for at least a period of one year a record of complaints received at its office. As directed by statute, this record must contain the name and address of the subscriber making the complaint, the date, the nature of the complaint, any corrective action taken by the cable television company, and the final disposition of the complaint. Further, these records are to be available for inspection by the staff of the OCTV and copies shall be provided to the OCTV upon request. In addition, 2003, c.38, §8(b) requires the Board to establish reporting procedures for annual reports, which will be propagated by the Board through an appropriate administrative rulemaking procedure. Finally, P.L. 2003, c.38, §9 provides that the Act shall become effective 120 days following enactment, making for an effective date of August 12, 2003.

In issuing this Order, the Board is cognizant that, under State and federal law, the privacy of subscriber information collected by a cable television company is of significant importance. 47 U.S.C.A. § 551 and N.J.S.A. 48:5A-54 et seq. provide overlapping and complementary protection over the collection and disclosure of subscriber information. Under federal law, a cable operator may not disclose personally identifiable information about a subscriber to a third party without the prior written or electronic consent of the subscriber. 47 U.S.C.A. § 551(c)(1).

The federal law appears to go so far as to even forbid disclosure to public agencies and other governmental authorities without either consent or a court order. 47 U.S.C.A. § 551(h). Additionally, the State's Cable Subscriber Privacy Protection Act, N.J.S.A. 48:5A-54 *et seq.*, limits the collection of personally identifiable information¹ to only that information necessary to provide service and to detect unauthorized reception of cable television service. N.J.S.A. 48:5A-56(a). While State law does not discuss the specific requirements for release to governmental agencies, and does note that disclosures can be made "pursuant to law," N.J.S.A. 48:5A-57(a), the Act does state that a cable television company may not release any personally identifiable information "without the prior written or electronic consent of the subscriber," *Ibid.* Accordingly, in order for this Board to implement the statutory requirements of P.L. 2003, c.38, §8(a), it will be necessary to direct the cable television companies in the State to ensure that customers have the opportunity to provide consent for disclosure to the Board during the complaint process.

The Board HEREBY FINDS that P.L. 2003, c.38, §8(a) requires the collection of all complaints received by a cable company, in whatever format received, including but not limited to written complaints, telephone complaints, in-person complaints to customer service representatives or other employees, and complaints received electronically, such as over the internet. The Board FURTHER FINDS that, in light of the privacy requirements imposed upon the uses of subscriber information under State and federal law, the cable television companies in the State must be required to seek customer consent for disclosure to the Board of Public Utilities of individual subscriber information associated with the complaint process. The Board FURTHER FINDS that each cable television operator is in the position with respect to its customers to best be able to seek this permission as a part of its complaint process.

Accordingly, the Board HEREBY ORDERS that each cable television company in the State shall retain, for a period of at least one year, a record of complaints at its office, which must contain the name and address of the subscriber, the date of the complaint, the nature of the complaint, any corrective action taken by the cable television company, and the final disposition of the complaint. The Board FURTHER ORDERS that, in taking customer complaints, each cable television company shall seek the permission of the customer to disclose the complaint to the Office of Cable Television, and an indication of such permission shall be retained with the complaint. The Board FURTHER ORDERS that every cable television company shall make the records available for review and copying as provided by P.L. 2003, c.38, §8(a); however, if an individual customer does not consent to dissemination of the collected information to the Office of Cable Television, the cable television company shall collect and provide all of the information otherwise required under this Order, but with the personally identifiable information of the non-consenting customer protected from disclosure. A customer's refusal to provide consent, or the cable television company's inability to receive and document consent for disclosure, shall not otherwise relieve a cable television company from the requirements of this Order.

¹ "Personally identifiable information," as defined by the New Jersey Cable Subscriber Privacy Protection Act, means any "information that identifies any individual as a subscriber to, or user of, a cable television system, or that otherwise provides information about that individual or his use of any service provided by a cable television system." N.J.S.A. 48:5A-55(d).

This Order shall remain in effect until such time as the Board of Public Utilities, through the Office of Cable Television, promulgates rules regulating the collection, retention and disclosure of customer complaint information.

DATED: August 19, 2003

BOARD OF PUBLIC UTILITIES
BY:

(signed)

JEANNE M. FOX
PRESIDENT

(signed)

FREDERICK F. BUTLER
COMMISSIONER

(signed)

CAROL J. MURPHY
COMMISSIONER

(signed)

CONNIE O. HUGHES
COMMISSIONER

(signed)

JACK ALTER
COMMISSIONER

ATTEST:

(signed)

KRISTI IZZO
SECRETARY

SERVICE LIST

James Holanda
President
Patriot Media
100 Randolph Road
Somerset, NJ 08873

John J. Capparell
General Manager
Service Electric of Hunterdon
2260 Avenue A, LVIP #1
Bethlehem, PA 18017

Robbin Caldarella
Acting General Manager
Service Electric of New Jersey
P.O. Box 853
Sparta, NJ 07871

Brien Kelley
General Manager
Time Warner Bergen & Hudson
200 Roosevelt Place
Palisades Park, NJ 07650

Carol McNamara
General Manager
US Cable Paramus & Hillsdale
590 Industrial Avenue
Paramus, NJ 07652

David Green
Interim Director of Regulatory Affairs
Cablevision
683 Route 10 East
Randolph, NJ 07869

William Kettleson
Vice President Public Affairs
Comcast Cablevision
One Cable TV Lane
Sicklerville, NJ 08081

David Breidinger, Vice President
Government Affairs, Eastern Division
Comcast Cablevision
122 West State Street
Trenton, NJ 08608

Cris Carey
General Manager
Hometown Online, Inc.
47 Main Street
P.O., Box 592
Warwick, NY 10990-0592

Karen Alexander, President
NJCTA
124 West State Street
Trenton, NJ 08608

Celeste M. Fasone, Director
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

William Furlong
Office of Cable Television
Two Gateway Center
Newark, NJ 07102

Kenneth J. Sheehan, Esq.
Deputy Attorneys General
Division of Law
State of New Jersey
124 Halsey Street
Newark, NJ 07102